

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL CASE NO. 1:09cr73

**UNITED STATES OF AMERICA,)
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 vs.)
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)
SCOTTIE W. BURNETT.)
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ORDER

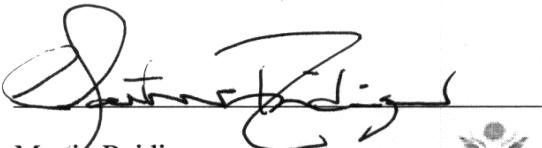
THIS MATTER is before the Court on the Defendant's Petition for a Writ of Habeas Corpus - 28 U.S.C. §2241 [Doc. 54].

In this pleading, the Defendant complains that he remains in federal custody although the federal indictment against him was dismissed on December 30, 2009. [Doc. 53]. Although the federal charges were dismissed, there are outstanding charges against the Defendant in the State of Louisiana. The Court has been told by the United States Marshal Service that extradition proceedings are in process and that the Defendant has been received into state custody with the State of North Carolina acting as the agent for the demanding state.

Although denominated as a writ, it appears that the Defendant merely seeks clarification of his custodial status. In order to avoid any adverse consequences to the Defendant's right to file such a petition in the future, the Court will construe the motion as one for clarification and deny it without prejudice to the Defendant's right to file a civil action.

IT IS, THEREFORE, ORDERED that the Defendant's Petition for a Writ of Habeas Corpus - 28 U.S.C. §2241 [Doc. 54] is construed as a motion for clarification and as so construed, it is hereby **DENIED** without prejudice to the Defendant's right to file a civil action.

Signed: January 22, 2010



Martin Reidinger
United States District Judge

